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10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 800-2017-033526

15 **MUHAMMAD KHALID AKBAR, M.D.**
16 **2071 Herndon Avenue**
Clovis, CA 93611

A C C U S A T I O N

17 **Physician's and Surgeon's Certificate**
18 **No. C52053,**

Respondent.

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20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer
24 Affairs (Board).

25 2. On or about September 2, 2005, the Medical Board issued Physician's and Surgeon's
26 Certificate No. C52053 to Muhammad Khalid Akbar, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on September 30, 2019, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

5. Section 2234 of the Code, states, in pertinent part:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but

1 is not limited to, the following:

2 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
3 the violation of, or conspiring to violate any provision of this chapter.

4 “(b) Gross negligence.

5 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent
6 acts or omissions. An initial negligent act or omission followed by a separate and distinct
7 departure from the applicable standard of care shall constitute repeated negligent acts.

8 “(1) An initial negligent diagnosis followed by an act or omission medically
9 appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

10 “(2) When the standard of care requires a change in the diagnosis, act, or omission
11 that constitutes the negligent act described in paragraph (1), including, but not limited to, a
12 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs
13 from the applicable standard of care, each departure constitutes a separate and distinct
14 breach of the standard of care:

15 “...”

16 6. Section 2266 of the Code states:

17 “The failure of a physician and surgeon to maintain adequate and accurate records
18 relating to the provision of services to their patients constitutes unprofessional conduct.”

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Gross Negligence)**

21 7. Respondent has subjected his Physician’s and Surgeon’s Certificate No.
22 C52053 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
23 subdivision (b), of the Code, in that Respondent committed gross negligence in his care and
24 treatment of Patient A¹, as more particularly alleged hereinafter:

25 8. Between in or around 2007, and in or around 2013, Patient A, received treatment
26 from Respondent through the The Permanente Medical Group in Clovis for chronic thoraco-

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28 ¹ To protect the privacy of the patient involved, the patient name has not been included in this pleading. Respondent is aware of the identity of the patient referred to herein.

1 lumbar back pain due to a combination of degenerative disc disease, lumbar facet arthritis, and
2 myofascial pain syndrome. Patient A had a history of chronic obstructive pulmonary disease and
3 testicular cancer. Among other things, Respondent's treatment of Patient A involved regular
4 prescriptions of Hydrocodone/APAP (Norco),² Oxycodone (Oxycontin),³ Oxymorphone
5 (Opana),⁴ Temazepam (Restoril),⁵ Diazepam (Valium),⁶ and Carisoprodol (Soma).⁷

6 9. On or about May 30, 2012, Patient A sent a secure message to Respondent requesting
7 refills of his medications, claiming it had been two weeks since he had had any medications.
8 Patient A further informed Respondent that he required 10 Norco tablets per day. Respondent
9 prescribed Patient A with a 30-day supply of medications that included 300 tablets of Norco and
10 90 tablets of Soma.

11 10. In or around June 2012, Respondent prescribed Patient A with a 30-day supply of
12 medications that included 120 tablets of Oxycontin, 300 tablets of Norco, 45 tablets of Restoril,
13 and 90 tablets of Soma.

14 11. In or around July 2012, Respondent prescribed Patient A with a 30-day supply of
15 medications that included 300 tablets of Norco and 90 tablets of Soma.

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18 ² Hydrocodone APAP, brand name Norco, is an opioid used to treat pain and is a Schedule III
19 controlled substances pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous
drug pursuant to Business and Professions Code section 4022.

20 ³ Oxycodone, brand name Oxycontin, is an opioid used to treat pain and is a Schedule II controlled
21 substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug
pursuant to Business and Professions Code section 4022.

22 ⁴ Oxymorphone, brand name Opana, is an opioid used to treat pain and is a Schedule II controlled
23 substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug
pursuant to Business and Professions Code section 4022.

24 ⁵ Temazepam, brand name Restoril, is a benzodiazepine used to treat insomnia and is a Schedule
25 IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a
dangerous drug pursuant to Business and Professions Code section 4022.

26 ⁶ Diazepam, brand name Valium, is a benzodiazepine used to treat anxiety and muscle spasms, and
27 is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d),
and a dangerous drug pursuant to Business and Professions Code section 4022.

28 ⁷ Carisoprodol, brand name Soma, is a muscle relaxant and central nervous system depressant, and
a dangerous drug pursuant to Business and Professions Code section 4022.

1 12. On or about August 13, 2012, Patient A presented to Respondent for a clinical visit.
2 Patient A had been working as an assembly line worker, and informed Respondent that he had
3 been working more and experiencing worse pain. Patient A further informed Respondent that he
4 had been taking 10 to 15 tablets of Norco per day. Respondent counseled Patient A on non-
5 medication steps to alleviate his pain, but the chart notes do not contain any detailed discussion
6 with the patient regarding taking his medication as prescribed. At the conclusion of the visit,
7 Respondent prescribed Patient A with 100 tablets of Norco, 120 tablets of Soma, and 120 tablets
8 of Oxycontin.

9 13. In or around September, 2012, Respondent prescribed Patient A with a 30-day supply
10 of medications that included 120 tablets of Soma, 120 tablets of Oxycontin, 300 tablets of Norco,
11 and 45 tablets of Restoril.

12 14. On or about October 2, 2012, Patient A sent a secure message to Respondent
13 informing him that he had taken more medication than prescribed, will be ten days short, and is
14 going through withdrawals. He further requested Respondent prepare him a note for work so he
15 can go on disability. Respondent eventually provided Patient A with a note authorizing him to be
16 off work until the end of November.

17 15. In or around October, 2012, Respondent prescribed Patient A with a 30-day supply of
18 medications that included 120 tablets of Soma, 120 tablets of Oxycontin, 300 tablets of Norco,
19 and 45 tablets of Restoril.

20 16. On or about November 5, 2012, Patient A presented to Respondent for a clinical visit.
21 Patient A reported that his pain was not controlled and was seeking long-term disability. During
22 this visit, Respondent counseled the patient not to overuse the Norco. Respondent also ordered an
23 x-ray of the patient's thoracic spine, which revealed minimal degenerative spondylosis with
24 normal alignment and no evidence of fracture, results similar to prior imaging conducted on April
25 27, 2011.

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1 17. In or around November, 2012, Respondent prescribed Patient A with a 30-day supply
2 of medications that included 90 tablets of Valium, 90 tablets of Methadone,⁸ 90 tablets of Soma,
3 120 tablets of Oxycontin, and 300 tablets of Norco.

4 18. On or about November 26, 2012, Patient A sent a secure message to Respondent
5 requesting a refill of Norco since he had been out of this medication for a long time. Respondent
6 counseled the patient to be taking a maximum of 8 tablets per day, since he was not working.

7 19. On or about December 28, 2012, Patient A presented to the Kaiser Hospital
8 emergency room in Fresno by ambulance, with complaints of chest pain. During this encounter,
9 Patient A informed the physician that he had stopped taking his pain medication and had been
10 drinking heavily for two weeks. Patient A further admitted to having attempted suicide a few
11 days prior by taking Percocet pills, and to having a gun at home. The patient was placed on a
12 mental health hold, pursuant to Welfare and Institutions Code section 5150, and eventually
13 released.

14 20. On or about December 31, 2012, Patient A's wife sent a secure message to
15 Respondent informing him that Patient A went to the emergency room and was placed into a
16 mental facility. She requested Respondent provide Patient A with his pain medications, since the
17 mental facility was not providing him with those medications. Respondent's colleague responded
18 in his absence and informed Patient A's wife that the psychiatrist in the facility was in charge of
19 all of Patient A's medications, and to have the psychiatrist contact Respondent about any needed
20 medicine changes.

21 21. On or about January 7, 2013, Patient A presented to Respondent for a clinical visit.
22 Patient A reported that he had taken himself off of Oxycontin and began drinking alcohol to
23 control the withdrawals. He denied current suicidality, and claimed his prior suicidal ideation
24 was a result of the alcohol. The chart notes for this visit do not contain any detailed discussion
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27 ⁸ Methadone is an opioid used to treat pain and is a Schedule II controlled substance pursuant to
28 Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and
Professions Code section 4022.

1 with the patient regarding the risks of combining alcohol with his prescribed medications, or any
2 recommendation that he follow-up with psychiatry.

3 22. In or around January 2013, Respondent prescribed Patient A with a 30-day supply of
4 medications that included 90 tablets of Soma and 300 tablets of Norco.⁹

5 23. In or around February 2013, Respondent prescribed Patient A with a 30-day supply of
6 medications that included 90 tablets of Soma, 60 tablets of Opana, 60 tablets of Oxycodone, and
7 45 tablets of Restoril.

8 24. On or about February 23, 2013, Patient A's wife sent a secure message to Respondent
9 informing him that Patient A is having trouble walking, is in a lot of pain, and is out of his pain
10 medications. Respondent informed her that he could not refill Patient A's Norco because he was
11 taking too much.

12 25. On or about February 28, 2013, Patient A sent a secure message to Respondent
13 requesting an early refill of his Norco prescription. Respondent denied the request.

14 26. On or about March 4, 2013, Patient A presented to Respondent for a clinical visit.
15 Patient A reported that he had an increase in pain and had been taking more than 10 Norco tablets
16 per day. At the conclusion of this visit, Respondent referred the patient to the chronic pain
17 program and psychiatry.

18 27. On or about March 18, 2013, Patient A contacted the chronic pain program to
19 schedule an appointment and sounded groggy, weak, and slurred his speech.

20 28. In or around March 2013, Respondent prescribed Patient A with a 30-day supply of
21 medications that included 90 tablets of Valium, 90 tablets of Soma, and 300 tablets of Norco.

22 29. In or around April 2013, Respondent prescribed Patient A with a 30-day supply of
23 medications that included 45 tablets of Restoril and 300 tablets of Norco.

24 30. On or about May 14, 2013, The Permanente Medical Group received notification that
25 Patient A had been seen at the Madera Community Hospital for a psychiatric evaluation pursuant

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28 ⁹ On or about January 2, 2013, Respondent's colleague also prescribed Patient A 90 tablets of
Valium, 90 tablets of Soma, and 300 tablets of Norco.

1 to Welfare and Institutions Code section 5150, was diagnosed with alcohol intoxication, and
2 discharged home.

3 31. In or around May 2013, Respondent prescribed Patient A with a 30-day supply of
4 medications that included 90 tablets of Soma, 300 tablets of Norco, and 45 tablets of Restoril.

5 32. On or about May 24, 2013, Patient A was found dead in his home as a result of an
6 intentional overdose of Norco.

7 33. Respondent committed gross negligence in his care and treatment of Patient A, by
8 continuing to prescribe a combination of opioids, benzodiazepines, and a central nervous system
9 depressant after the patient had a documented suicide attempt utilizing prescribed medication,
10 admitted heavy alcohol use, and access to a deadly weapon.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Failure to Maintain Adequate and Accurate Records)**

13 34. Respondent has further subjected his Physician's and Surgeon's Certificate No.
14 C52053 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the
15 Code, in that Respondent failed to maintain adequate and accurate records regarding his care and
16 treatment of Patient A, as more particularly alleged in paragraphs 7 through 33, above, which are
17 hereby incorporated by reference and realleged as if fully set forth herein.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:


1. Revoking or suspending Physician's and Surgeon's Certificate No. C52053, issued to Respondent, Muhammad Khalid Akbar, M.D.;

2. Revoking, suspending or denying approval of Respondent, Muhammad Khalid Akbar, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent, Muhammad Khalid Akbar, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: January 4, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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